

Federal Communications Commission

DA 01-2002

Before the
Federal Communications Commission
Washington, D.C. 20554

2001 AUG 27 P 3: 08

In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments;)
FM Broadcast Stations.)
(Junction, Texas)) MM Docket No. 01-198
) RM-10213
)
(Knox City, Texas)) MM Docket No. 01-199 ✓
) RM-10214
)
(Dilley, Texas)) MM Docket No. 01-200
) RM-10215
)
(Frederic, Michigan)) MM Docket No. 01-201
) RM-10216
)
(Goree, Texas)) MM Docket No. 01-202
) RM-10217
)
(Leakey, Texas)) MM Docket No. 01-203
) RM-10218
)
(Sweetwater, Texas)) MM Docket No. 01-204
) RM-10219

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NOTICE OF PROPOSED RULE MAKING

Adopted: August 15, 2001

Released: August 24, 2001

Comment Date: October 15, 2001

Reply Comment Date: October 30, 2001

By the Chief, Allocations Branch:

1. Before the Commission for consideration is a multiple docket Notice of Proposed Rule Making setting forth separate proposals to amend the FM Table of Allotments, Section 73.202(b) of the Rules. Each petitioner has stated that it will apply for its requested channel, if allotted. We

believe that each proposal warrants consideration because it complies with our technical requirements and would serve the public interest.

2. This is a multiple docket Notice of Proposed Rule Making issued in response to a Commission Public Notice released October 2, 1998 (DA 98-1987). We are combining separate FM allotment proposals into a single Notice of Proposed Rule Making. Each proposal has its own docket and rule making number and the Commission's Reference Center will maintain a separate file for each docket. As discussed in the Public Notice, this procedure will conserve Commission resources and expedite the processing of FM allotment petitions for rule making by avoiding duplicative actions. We request comments and/or counterproposals to the following proposals:

A. MM Docket No. 01-198; RM-10213

Petitioner: Katherine Pyeatt
6655 Aintree Circle
Dallas, Texas 75214

Proposal: Allot Channel 277C3 at Junction, Texas, as potentially the community's third local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Junction, Texas	228C2	228C2, 277C3 297A ¹

Coordinates: 30-22-51 NL and 99-47-59 WL

Additional Information: This allotment requires a site restriction of 12.3 kilometers (7.6 miles) south to avoid short-spacings to the licensed sites of Station KKC�(FM), Channel 276C1, Ballinger, Texas, and Station KEEP(FM), Channel 276A, Bandera, Texas. Since Junction is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

¹ A Notice of Proposed Rulemaking was adopted in Docket No. 01-132 on June 13, 2001, proposing the allotment of Channel 297A at Junction, Texas, as the community's second local FM transmission service. See 16 FCC Rcd ____ (released June 22, 1001); 66 FR 35406, July 5, 2001.

B. MM Docket No. 01-199; RM-10214

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 291A at Knox City, Texas, as the community's second local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Knox City, Texas	257A	291A, 297A

Coordinates: 33-25-55 NL and 99-47-43 WL

Additional Information: This allotment requires a site restriction of 2.7 kilometers (1.7 miles) northeast to avoid a short-spacing to the construction permit site of Station KKHR(FM), Channel 292C2, Abilene, Texas.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

C. MM Docket No. 01-200; RM-10215

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 264A at Dilley, Texas, as the community's second local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Dilley, Texas	255C1	255C1, 264A

Coordinates: 28-40-02 NL and 99-10-13 WL

Additional Information: This allotment is located at city reference coordinates and does not require a site restriction. Since Dilley is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

D. MM Docket No. 01-201; RM-10216

Petitioner: Alpine Wireless of Frederic

c/o Arthur V. Belendiuk, Esq.
Smithwick & Belendiuk, P.C.
5028 Wisconsin Ave., N.W., Suite 301
Washington, D.C. 20016

Proposal: Allot Channel 237A at Frederic, Michigan, as the community's first local aural transmission service.²

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Frederic, Michigan	---	237A

Coordinates: 44-46-29 NL and 84-39-29 WL

Additional Information: This allotment requires a site restriction of 7.6 kilometers (4.7 miles) east to avoid a short-spacing to the licensed sites of Station WCFX(FM), Channel 237A, Clare, Michigan, and Station WJZJ(FM), Channel 238C2, Glen Arbor, Michigan. Since Frederic is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

E. MM Docket No. 01-202; RM-10217

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 275A at Goree, Texas, as the community's first local aural transmission

²In support of the proposal, petitioner states that Frederic is an incorporated city located in Crawford County and has a 2000 U.S. Census population of 1,401 persons. It has its own post office and zip code. Frederic also has its own fire department, elementary school, and library.

service.³

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Goree, Texas	---	275A

Coordinates: 33-30-00 NL and 99-30-00 WL

Additional Information: This allotment requires a site restriction of 4.3 kilometers (2.7 miles) northeast to avoid a short-spacing to the licensed site of Station KHXS(FM), Channel 274C1, Merkel, Texas.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

F. MM Docket No. 01-203; RM-10218

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 299A at Leakey, Texas, as the community's third local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Leakey, Texas	226A, 282A	226A, 282A, 299A

Coordinates: 29-41-58 NL and 99-53-41 WL

Additional Information: This allotment requires a site restriction of 13.3 kilometers (8.3 miles) west to avoid short-spacings to the licensed sites of Station KXTN-FM, Channel 298C, San Antonio, Texas, and Station XHPC-FM, Channel 300B, Piedras, Mexico. Since Leakey is located within 320 kilometers (199 miles) of the U.S-Mexican border, concurrence of the Mexican government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

³ In support of its proposal, petitioner states that Goree is an incorporated community with a 1998 Texas State Data Center population of 425 persons (the 2000 Census population is 321 persons). Goree has its own mayor, city hall, post office, and school district.

G. MM Docket No. 01-204; RM-10219

Petitioner: Jeraldine Anderson
1702 Cypress Drive
Irving, Texas 75061

Proposal: Allot Channel 221C3 at Sweetwater, Texas, as the community's second local FM transmission service.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Sweetwater, Texas	244A	221C3, 244A

Coordinates: 32-28-15 NL and 100-24-20 WL

Additional Information: This allotment is located at city reference coordinates and requires no site restriction. Since Sweetwater located within 320 kilometers (199 miles) of the U.S-Mexican border, concurrence of the Mexican government has been requested.

FCC Contact: Sharon P. McDonald, (202) 418-2180.

3. Comments, reply comments, counterproposals and other pleadings filed in response to this multiple docket Notice of Proposed Rule Making should reference **only** the specific docket to which the filing pertains. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required in paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before **October 15, 2001**, and reply comments on or before **October 30, 2001**, and are advised to read the Appendix for the proper procedure. Additionally, a copy of any filing should be served on the petitioner listed for the particular docket.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to a rule making proceeding to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules. 46 FR 11549 (February 9, 1981).

6. For further information concerning a proceeding listed above, contact the FCC contact listed for that proceeding. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in particular docket unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off protection. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposals in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center (Room CY-A257) at its headquarters, 445 12th Street, S.W., Washington, D.C. 20554.